

STEPHEN P. BERZON (#46540)
sberzon@altshulerberzon.com

LINDA LYE (#215584)
llye@altshulerberzon.com

CLAIRE P. PRESTEL (#235649)
cprestel@altshulerberzon.com

Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

ELIZABETH GINSBURG
(Application for Admission *Pro Hac Vice* Pending)

elizabeth.ginsburg@alpa.org
Air Line Pilots Association, International
535 Herndon Parkway
Herndon, VA 20172-1169
Telephone: (703) 481-2424
Facsimile: (703) 481-2478

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SKYWEST PILOTS ALPA ORGANIZING
COMMITTEE, *et al.*,

Plaintiffs,

v.

SKYWEST AIRLINES, INC.,

Defendant.

CASE NO.: C07-2688 CRB

**~~PROPOSED~~ AMENDED TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE: PRELIMINARY
INJUNCTION**

The above-captioned matter came before the Court upon Plaintiffs' *Ex Parte* Motion For A Temporary Restraining Order And Order To Show Cause Why A Preliminary Injunction Should Not Issue and Defendant's Motion To Dissolve the Temporary Restraining Order previously issued on May 22, 2007. A hearing was held on May 24, 2007 at which both parties were represented by counsel and presented argument.

1 Having considered the evidence and legal arguments, the Court finds that Plaintiffs have
 2 demonstrated a likelihood of success on the merits and that the balance of hardships tips sharply
 3 in Plaintiffs' favor. Accordingly, Plaintiffs are entitled to a Temporary Restraining Order.

4 In support of this Temporary Restraining Order, the Court makes the following findings:

- 5 • Unlawful acts have been threatened and will be committed unless restrained or have
 6 been committed and will be continued unless restrained.
- 7 • Substantial and irreparable injury to Plaintiffs' property will occur in the absence of
 8 immediate injunctive relief.
- 9 • As to each item of relief granted in paragraphs 1 through 3 below, greater injury will
 10 be inflicted upon Plaintiffs by the denial of relief than will be inflicted upon
 11 Defendant by the granting of relief.
- 12 • Plaintiffs have no adequate remedy at law.
- 13 • Plaintiffs suffer injury in the form of the deprivation of their rights under the Railway
 14 Labor Act ("RLA" or "the Act"), 45 U.S.C. §152, Third and Fourth, to organize and
 15 to select a bargaining representative of their own choosing and specifically to engage
 16 in expressive and associational activity in connection with their organizing campaign,
 17 free of employer interference or discrimination.
- 18 • Harm to Plaintiffs is irreparable because under controlling Ninth Circuit caselaw.
 19 *Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d 935, 938 (9th Cir. 1987) ("coercive
 20 and inhibitory effects upon . . . employees' organizational rights secured by the RLA
 21 . . . [are] irreparable").

22 THEREFORE, IT IS HEREBY ORDERED that the Temporary Restraining Order issued
 23 by this Court on May 22, 2007 is dissolved and superseded by this Amended Temporary
 24 Restraining Order.

25 IT IS FURTHER HEREBY ORDERED that Defendant SkyWest Airlines, Inc.
 26 ("SkyWest"), its officers, agents, servants, employees, and attorneys, and all persons acting by,
 27 through, under, or in concert with Defendant, are hereby temporarily restrained and enjoined,
 28 pending a ruling by this Court on whether a preliminary injunction should issue, from:

- 1) Interfering in any way with SkyWest pilots' outward expression of support for ALPA and the ALPA organizing campaign and association with like-minded pilots through, *inter alia*, the wearing of ALPA insignia on lanyards or pins, while in uniform or off duty.
- 2) Interfering in any way with SkyWest pilots' communication with fellow SkyWest pilots regarding ALPA and the ALPA organizing campaign through distribution of ALPA-related materials in non-work areas such as bulletin boards and crew lounges.
- 3) Discriminating in any way against SkyWest pilots with respect to the channels of communication they may use to communicate with fellow pilots, and to provide the pilots employed by SkyWest, who are members of Plaintiff SkyWest Pilots ALPA Organizing Committee and whose names appear on the attached Appendix A, with access to the same channels of communication provided to SAPA at any point during the last year, including but not limited to a dedicated bulletin board in each crew lounge where SAPA had a dedicated bulletin board at any point in the last year, general bulletin boards in crew lounges, pilot mailboxes, SkyWest's email system, and newly-hired pilot classes.

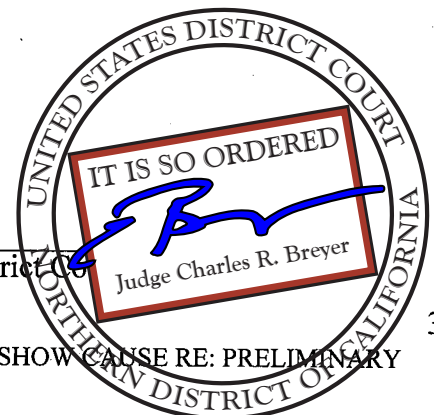
IT IS FURTHER HEREBY ORDERED that no bond is necessary for each of the following separate and independent reasons: (1) Plaintiffs have a strong likelihood of success on the merits; (2) there is no realistic likelihood of harm to Defendant from enjoining its conduct; and (3) the balance of hardships weighs in favor of Plaintiffs.

IT IS FURTHER ORDERED that Plaintiffs shall serve this restraining order and all pleadings and papers supporting their motion for a preliminary injunction on Defendants not later than May 24, 2007. Opposition to Plaintiffs' request for a preliminary injunction shall be filed and served by Defendants not later than noon May 29, 2007. Plaintiffs' reply papers shall be filed and served not later than noon May 30, 2007. A hearing on Plaintiff's request for a preliminary injunction will be held on May 31, 2007.

IT IS SO ORDERED.

Date: May 24, 2007

U.S. District Court



1 **APPENDIX A TO AMENDED TEMPORARY RESTRAINING ORDER**

2 Phil Alford SLC CRJ Captain
 3 Arshad Ali ORD CRJ Captain
 4 Omar Amin PSP EM2 Captain
 5 David Benjamin PDX EM2 Captain
 6 Andy Bharath DEN CRJ Captain
 7 David Boehm SLC CRJ Captain
 8 Frank Bowlin TRG CRJ Captain
 9 Thomas Caldwell DEN CRJ Captain
 10 Rick Clapp ORD CRJ Captain
 11 John Colson DEN CRJ Captain
 12 Travis Cook SLC CRJ First Officer
 13 Clifford Cooley DEN EM2 Captain
 14 Erik Copeland SLC CRJ Captain
 15 Nathaniel Cothran FAT CRJ First Officer
 16 Shaun Cunningham ORD CRJ Captain
 17 Jason Custer FAT CRJ Captain
 18 Larry de Freitas SLC CRJ Captain
 19 Steve Dow COS CRJ Captain
 20 Chris Eyring SLC CRJ Captain
 21 Ramon Gleser DEN CRJ Captain
 22 Laura Goudge TRG CRJ Captain
 23 Frank Hammond SBP EM2 Captain
 24 Karen "Diane" Helly SLC CRJ Captain
 25 Kurt Horst DEN CRJ Captain
 26 Gordon Hyde DEN CRJ First Officer
 27 Jason Ianaro ORD CRJ Captain
 28 Russ Jacobie FAT CRJ Captain
 Jesse Jenks SBP EM2 Captain
 Marc Johnson ORD CRJ Captain
 Steve Kanuch DEN CRJ Captain
 Scott Koehler TRG CRJ Captain
 Jeremy Konis TUS CRJ First Officer
 Russell LaBelle COS CRJ First Officer
 Jeri Lyn Liddiard SLC CRJ Captain
 Todd Lisak ORD CRJ Captain
 Riad Mansur ORD CRJ Captain
 Diletta Martirano SAN EM2 First Officer
 Jeremy Michalek SLC CRJ Captain
 Darris Miller DEN CRJ Captain
 Adam Miller ORD CRJ Captain
 Paul Millsap SLC CRJ Captain
 Scott Mitchell SLC CRJ Captain
 Douglas Moriarty SLC CRJ Captain
 Jeffery Nostrom SLC CRJ Captain
 Mike Owiecki SMF CRJ Captain
 Antonio Scamardella ORD CRJ Captain
 Jeff Sciaroni DEN CRJ Captain
 Curtis Sessions SLC CRJ Captain
 Tracy Shrier SLC CRJ Captain
 Peter Veuger DEN CRJ Captain
 Allen Walker FAT CRJ Captain
 Clinton Weichers MRY EM2 Captain
 Tom Wimber COS CRJ First Officer